

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES T. BEALS, SAMUEL D. DRAPER, JOSE LOPES,
STEPHEN D. MURRAY and BRANDON W. SPANGLER

Appeal No. 2006-2203
Application No. 10/687,231

ON BRIEF

Before KIMLIN, GARRIS and TIMM, Administrative Patent Judges.
KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

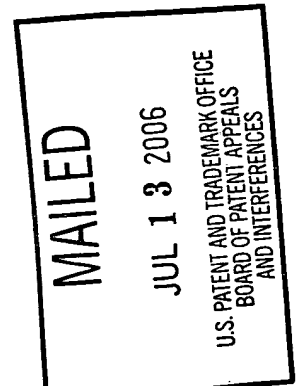
This is an appeal from the final rejection of claims 11-24.

Claim 11 is illustrative:

11. A refractory metal core for maintaining a core in a desired position with respect to a wax die and avoiding core shift during casting comprising:

a core element formed from a refractory metal material;

said core element having a planar central portion and at least one integrally formed spring tab means for providing spring loading when closed in said wax die for creating a spring-like effect for positioning the core element in the wax die and maintaining the position of the core during shelling.



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The examiner relies upon the following references in the rejections of the appealed claims:

Yoshida et al. (Yoshida)	4,499,366	Feb. 12, 1985
Grabbe et al. (Grabbe)	5,243,757	Sep. 14, 1993
Eldridge et al. (Eldridge '119)	2004/0016119 A1	Jan. 29, 2004
Eldridge et al. (Eldridge '734)	6,807,734	Oct. 26, 2004

Appellants' claimed invention is directed to a refractory metal core element which maintains a core in a desired position with respect to a wax die. The core element comprises a planar central portion and at least one integrally formed spring tab means which provides spring loading when closed in the wax dye.

Appealed claims 11-15 and 18-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Eldridge '734. Claims 11, 13-15 and 18-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by either Grabbe or Yoshida. In addition, all the appealed claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eldridge '119 in view of Eldridge '734.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we find that the examiner's rejections are well-founded inasmuch as they are supported by the prior art evidence relied upon and in accordance with current

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patent jurisprudence. Accordingly, we will sustain the examiner's rejections for essentially those reasons expressed in the answer.

Concerning the Section 102 rejections over Eldridge '734, Grabbe and Yoshida, appellants' principal argument is that the references are directed to electrical contact structures and have nothing to do with a metal core for maintaining a core in a desired position with a waxed die. However, we agree with the examiner that appellants' preambular claim language does not serve to distinguish the claimed structure over the structures described in the applied references. While appellants emphasize that the cited references do not teach the claimed function of securing and maintaining the position of the core with respect to the wax die, appellants have not taken the requisite step in setting forth any structural differences between core elements within the scope of the appealed claims and the electrical components of the applied prior art. In our view, the examiner has adequately established sufficient sameness between the claimed and prior art structures, which are all made of refractory metal, to support the reasonable conclusion that the components described in the prior art are fully capable of performing the recited intended use and function. In re

Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). For instance, as explained by the examiner, Eldridge '734 expressly describes the element as a spring contact element. We invite comparison between, for examples, Figures 3A-C of Eldridge '734 and appellants' Figures as well as Figure 3 of Grabbe and Figure 1 of Yoshida. We note that appellants have advanced no argument, let alone evidence, that the prior art components are not capable of performing the recited intended use and function.

Appellants have not presented separate substantive arguments for claims 13, 15, 18 and 19 which, accordingly, stand or fall together with the claims on which they depend. As for the remaining claims separately argued by appellants, we agree with the reasoning set forth in the examiner's answer. For example, regarding the claim 12 limitation of a plurality of spaced apart spring tabs, we concur with the analysis set forth at page 7 of the answer with respect to Figures 4B and 4C of Eldridge '734 depicting separate tabs at each end of the element.


As a final point, with respect to the Section 103 rejection of all the appealed claims, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.


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In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


EDWARD C. KIMLIN
Administrative Patent Judge


BRADLEY R. GARNIS
~~Administrative Patent Judge~~

BOARD OF PATENT
APPEALS AND
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CATHERINE TIMM
Administrative Patent Judge

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